

AMENDED IN ASSEMBLY AUGUST 12, 2008

AMENDED IN ASSEMBLY JUNE 17, 2008

AMENDED IN ASSEMBLY JUNE 5, 2008

AMENDED IN SENATE APRIL 9, 2008

SENATE BILL

No. 1726

Introduced by Senator Scott

February 22, 2008

An act to amend Sections 7612, 7613, 7630, 7660.5, 7662, 8632.5, 8700, 8714.5, 8802, and 8814.5 of, *and to add Section 8639 to*, the Family Code, and to amend Section 1510 of the Probate Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

SB 1726, as amended, Scott. Adoption.

(1) Existing law governs the presumptions that apply in a proceeding to determine parentage, including which presumption controls in a case in which 2 or more presumptions arise. Existing law also governs the determination of parentage when a wife undergoes artificial insemination. *Existing law specifies that the donor of semen provided to a licensed physician and surgeon for use in artificial insemination of a woman other than the donor's wife is treated in law as if he were not the natural father of a child thereby conceived.*

This bill would revise ~~those provisions to make them gender neutral,~~ *as specified the latter provision to apply also to a donation provided to a licensed sperm bank and also to a donation provided for use for in vitro fertilization.*

(2) Existing law authorizes the joinder of prospective adoptive parents in a paternity action without the need for a separate motion.

This bill would provide that a joined party shall not be required to pay a fee in connection with this action.

(3) Existing law governs juvenile court proceedings and adoption and foster care proceedings. Among other things, these provisions provide for the confidentiality of juvenile court records, require that notice of hearings in dependency proceedings be given to specified persons, and govern the rights of parents in adoption proceedings. Existing law generally provides that if a presumed father waives the right to notice in writing before a notary public, no notice of, voluntary relinquishment for, or consent to adoption shall be required from him for the adoption to proceed.

This bill would revise the latter provision to provide that a presumed father may waive the right to notice of any adoption proceeding before or after the birth of the child and in front of an authorized representative of the State Department of Social Services, an authorized representative of a public or private adoption agency, or a notary public.

(4) The Uniform Parentage Act governs the determination of parent and child relationships. Among other things, the act authorizes proceedings to terminate the parental rights of an alleged father when the child is the subject of an adoption proceeding and the alleged father has not, in writing, denied paternity or waived his right to notice of, voluntarily relinquished the child for, or consented to, the adoption.

This bill would revise and recast the provision relating to the termination of the rights of an alleged father of a child that is the subject of an adoption proceeding, as specified. The bill would provide, in addition, that a birth father may validly execute a waiver of notice or denial of paternity before or after the birth of the child, and once signed, no notice of, voluntary relinquishment for, or consent to the adoption of the child shall be required from the birth father for the adoption to proceed.

(5) Existing law provides that if a child is the subject of an adoption and a guardianship petition, the guardianship proceeding shall be consolidated with the adoption proceeding.

This bill would provide that both the guardianship case and the adoption case shall be heard and decided by the court in which the adoption is pending.

(6) Existing law provides that, after a consent to an adoption is signed by the birth parent or parents, the birth parent or parents signing the consent have 30 days to take one of specified actions, including signing a waiver of the right to revoke consent. Existing law requires a waiver

to be signed in the presence of a representative of the department or the delegated county adoption agency. If those persons are not available within 10 days, the waiver may be signed in the presence of a judicial officer. Existing law also provides for the waiver to be signed in the presence of a judicial officer, as specified.

This bill would delete the provision authorizing the waiver to be signed in the presence of a judicial officer if neither a representative of the department or agency is available within an unspecified number of days, as specified. The bill would authorize a birth parent to sign the waiver in the presence of an adoption service provider if the birth parent is represented by independent legal counsel and the provider takes specified other action, or in the presence of a judicial officer of a court of record if the birth parent is represented by independent legal counsel. The bill would require that a licensed adoption agency or an adoption service provider provide specified information to a birth parent regarding his or her request to withdraw a relinquishment or a waiver of consent to adoption, as applicable. The bill would also set forth the role of independent legal counsel, as specified. The bill would set forth a specified certificate for that counsel to use in those proceedings. The bill would make other related changes.

(7) Existing law provides for the regulation of adoption facilitators, as defined. Existing law also requires the State Department of Social Services to establish and adopt regulations for a statewide registration process for adoption facilitators.

This bill would require the department to also establish and adopt regulations for a statewide enforcement process for adoption facilitators. The bill would also require the process to include a means for removing adoption facilitators from the adoption facilitator registry.

(8) Existing law permits the department to deny inclusion in the registry for adoption facilitators to an applicant who has been convicted of any crime for which the department may deny a license to an adoption agency.

This bill would provide that the department may deny or revoke inclusion in the registry for adoption facilitators to an applicant who does not possess a criminal record clearance or exemption issued by the department, as specified, and the criminal record clearance regulations applicable to personnel of private adoption services. The bill would also state that criminal record clearances and exemptions granted to adoption facilitators are not transferable.

(9) Existing law requires a person, prior to engaging in the business of or acting in the capacity of an adoption facilitator, to obtain a business license in the appropriate jurisdiction and be bonded, as specified. Existing law also requires the adoption facilitator to file a disclosure form when posting a bond, as specified. Under existing law, along with that disclosure form, the adoption facilitator must provide proof that the facilitator and any member of the staff who provides direct adoption services has a minimum of 3 years of experience employed by a public or private adoption agency, a registered adoption facilitator, or an adoption attorney who assists in bringing adopting persons and placing parents together for the purpose of adoption placement.

This bill would specify that the minimum of 3 years of experience described in that provision must be as an employee of a public or private adoption agency that is licensed by the department.

(10) Existing law also permits an adoption facilitator or staff member subject to that requirement to waive the educational and experience requirements, as specified, including by acquiring over 5 years of work experience providing direct adoption services.

This bill would also specify that the 5 years of work experience must be in providing direct adoption services for a licensed adoption agency.

This bill would also provide that any adoption facilitator who operates without having met certain requirements may be fined \$100 per day, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7612 of the Family Code is amended to
2 read:
3 7612. (a) Except as provided in Chapter 1 (commencing with
4 Section 7540) and Chapter 3 (commencing with Section 7570) of
5 Part 2 or in Section 20102, a presumption under Section 7611 is
6 a rebuttable presumption affecting the burden of proof and may
7 be rebutted in an appropriate action only by clear and convincing
8 evidence.
9 (b) If two or more presumptions arise under Section 7610 or
10 7611 that conflict with each other, or if a presumption under
11 Section 7611 conflicts with a claim pursuant to Section 7610, the

1 presumption which on the facts is founded on the weightier
2 considerations of policy and logic controls.

3 (c) The presumption under Section 7611 is rebutted by a
4 judgment establishing paternity of the child by another man.

5 SEC. 2. Section 7613 of the Family Code is amended to read:

6 ~~7613. (a) If, under the supervision of a licensed physician and~~
7 ~~surgeon and with the consent of her husband or spouse, a wife or~~
8 ~~spouse is inseminated artificially with semen donated by a man~~
9 ~~not her husband, or if a woman has an embryo implanted in her~~
10 ~~womb, created by using semen donated by a man who is not her~~
11 ~~husband, the spouse is treated in law as if he or she were the natural~~
12 ~~father or second parent of a child thereby conceived. The husband's~~
13 ~~or spouse's consent must be in writing and signed by him or her~~
14 ~~and his or her wife or spouse. The physician and surgeon shall~~
15 ~~certify their signatures and the date of the insemination, and retain~~
16 ~~the husband's or spouse's consent as part of the medical record,~~
17 ~~where it shall be kept confidential and in a sealed file. However,~~
18 ~~the physician and surgeon's failure to do so does not affect the~~
19 ~~parent and child relationship. All papers and records pertaining to~~
20 ~~the insemination, whether part of the permanent record of a court~~
21 ~~or of a file held by the supervising physician and surgeon or~~
22 ~~elsewhere, are subject to inspection only upon an order of the court~~
23 ~~for good cause shown.~~

24 *7613. (a) If, under the supervision of a licensed physician and*
25 *surgeon and with the consent of her husband, a wife is inseminated*
26 *artificially with semen donated by a man not her husband, the*
27 *husband is treated in law as if he were the natural father of a child*
28 *thereby conceived. The husband's consent must be in writing and*
29 *signed by him and his wife. The physician and surgeon shall certify*
30 *their signatures and the date of the insemination, and retain the*
31 *husband's consent as part of the medical record, where it shall be*
32 *kept confidential and in a sealed file. However, the physician and*
33 *surgeon's failure to do so does not affect the father and child*
34 *relationship. All papers and records pertaining to the insemination,*
35 *whether part of the permanent record of a court or of a file held*
36 *by the supervising physician and surgeon or elsewhere, are subject*
37 *to inspection only upon an order of the court for good cause shown.*

38 (b) The donor of semen provided to a licensed physician and
39 surgeon or to a licensed sperm bank for use in artificial
40 insemination or in vitro fertilization of a woman other than the

1 donor's wife is treated in law as if he were not the natural father
2 of a child thereby conceived.

3 SEC. 3. Section 7630 of the Family Code is amended to read:

4 7630. (a) A child, the child's natural mother, a man presumed
5 to be the child's father under subdivision (a), (b), or (c) of Section
6 7611, an adoption agency to whom the child has been relinquished,
7 or a prospective adoptive parent of the child may bring an action
8 as follows:

9 (1) At any time for the purpose of declaring the existence of the
10 father and child relationship presumed under subdivision (a), (b),
11 or (c) of Section 7611.

12 (2) For the purpose of declaring the nonexistence of the father
13 and child relationship presumed under subdivision (a), (b), or (c)
14 of Section 7611 only if the action is brought within a reasonable
15 time after obtaining knowledge of relevant facts. After the
16 presumption has been rebutted, paternity of the child by another
17 man may be determined in the same action, if he has been made
18 a party.

19 (b) Any interested party may bring an action at any time for the
20 purpose of determining the existence or nonexistence of the father
21 and child relationship presumed under subdivision (d) or (f) of
22 Section 7611.

23 (c) An action to determine the existence of the father and child
24 relationship with respect to a child who has no presumed father
25 under Section 7611 or whose presumed father is deceased may be
26 brought by the child or personal representative of the child, the
27 Department of Child Support Services, the mother or the personal
28 representative or a parent of the mother if the mother has died or
29 is a minor, a man alleged or alleging himself to be the father, or
30 the personal representative or a parent of the alleged father if the
31 alleged father has died or is a minor.

32 (d) (1) If a proceeding has been filed under Chapter 2
33 (commencing with Section 7820) of Part 4, an action under
34 subdivision (a) or (b) shall be consolidated with that proceeding.
35 The parental rights of the presumed father shall be determined as
36 set forth in Sections 7820 to 7829, inclusive.

37 (2) If a proceeding pursuant to Section 7662 has been filed under
38 Chapter 5 (commencing with Section 7660), an action under
39 subdivision (c) shall be consolidated with that proceeding. The

1 parental rights of the alleged natural father shall be determined as
2 set forth in Section 7664.

3 (3) The consolidated action under paragraph (1) or (2) shall be
4 heard in the court in which the proceeding under Section 7662 or
5 Chapter 2 (commencing with Section 7820) of Part 4 is filed, unless
6 the court finds, by clear and convincing evidence, that transferring
7 the action to the other court poses a substantial hardship to the
8 petitioner. Mere inconvenience does not constitute a sufficient
9 basis for a finding of substantial hardship. If the court determines
10 there is a substantial hardship, the consolidated action shall be
11 heard in the court in which the paternity action is filed.

12 (e) (1) If any prospective adoptive parent who has physical
13 custody of the child, or any licensed California adoption agency
14 that has legal custody of the child, has not been joined as a party
15 to an action to determine the existence of a father and child
16 relationship under subdivision (a), (b), or (c), or an action for
17 custody by the alleged natural father, the court shall join the
18 prospective adoptive parent or licensed California adoption agency
19 as a party upon application or on its own motion, without the
20 necessity of a motion for joinder. A joined party shall not be
21 required to pay a fee in connection with this action.

22 (2) If a man brings an action to determine paternity and custody
23 of a child who he has reason to believe is in the physical or legal
24 custody of an adoption agency, or of one or more persons other
25 than the child's mother who are prospective adoptive parents, he
26 shall serve his entire pleading on, and give notice of all proceedings
27 to, the adoption agency or the prospective adoptive parents, or
28 both.

29 (f) A party to an assisted reproduction agreement may bring an
30 action at any time to establish a parent and child relationship
31 consistent with the intent expressed in that assisted reproduction
32 agreement.

33 SEC. 4. Section 7660.5 of the Family Code is amended to read:
34 7660.5. Notwithstanding any other provision of law, a
35 presumed father may waive the right to notice of any adoption
36 proceeding by executing a form developed by the department
37 before an authorized representative of the department, an authorized
38 representative of a licensed public or private adoption agency, or
39 a notary public or other person authorized to perform notarial acts.
40 The waiver of notice form may be validly executed before or after

1 the birth of the child, and once signed no notice, relinquishment
2 for, or consent to adoption of the child shall be required from the
3 father for the adoption to proceed. This shall be a voluntary and
4 informed waiver without undue influence. If the child is an Indian
5 child as defined under the Indian Child Welfare Act (ICWA), any
6 waiver of consent by an Indian presumed father shall be executed
7 in accordance with the requirements for voluntary adoptions set
8 forth in Section 1913 of Title 25 of the United States Code. The
9 waiver shall not affect the rights of any known federally recognized
10 Indian tribe or tribes from which the child or the presumed father
11 may be descended to notification of, or participation in, adoption
12 proceedings as provided by the ICWA. Notice that the waiver has
13 been executed shall be given to any known federally recognized
14 Indian tribe or tribes from which the child or the presumed father
15 may be descended, as required by the ICWA.

16 SEC. 5. Section 7662 of the Family Code is amended to read:

17 7662. (a) If a mother relinquishes for or consents to, or
18 proposes to relinquish for or consent to, the adoption of a child
19 who does not have a presumed father under Section 7611, or if a
20 child otherwise becomes the subject of an adoption proceeding,
21 the agency or person to whom the child has been or is to be
22 relinquished, or the mother or the person having physical or legal
23 custody of the child, or the prospective adoptive parent, shall file
24 a petition to terminate the parental rights of the father, unless one
25 of the following occurs:

26 (1) The father's relationship to the child has been previously
27 terminated or determined not to exist by a court.

28 (2) The father has been served as prescribed in Section 7666
29 with a written notice alleging that he is or could be the natural
30 father of the child to be adopted or placed for adoption and has
31 failed to bring an action for the purpose of declaring the existence
32 of the father and child relationship pursuant to subdivision (c) of
33 Section 7630 within 30 days of service of the notice or the birth
34 of the child, whichever is later.

35 (3) The alleged father has executed a written form developed
36 by the department to waive notice, to deny his paternity, relinquish
37 the child for adoption, or consent to the adoption of the child.

38 (b) The birth father may validly execute a waiver or denial of
39 paternity before or after the birth of the child, and once signed, no

1 notice of, relinquishment for, or consent to adoption of the child
2 shall be required from the birth father for the adoption to proceed.

3 (c) All proceedings affecting a child under Divisions 8
4 (commencing with Section 3000) to 11 (commencing with Section
5 6500), inclusive, and Parts 1 (commencing with Section 7500) to
6 3 (commencing with Section 7600), inclusive, of this division,
7 other than an action brought pursuant to this section, shall be stayed
8 pending final determination of proceedings to terminate the parental
9 rights of the father pursuant to this section.

10 (d) Nothing in this section may limit the jurisdiction of the court
11 pursuant to Part 3 (commencing with Section 6240) and Part 4
12 (commencing with Section 6300) of Division 10 with respect to
13 domestic violence orders.

14 *SEC. 6. Section 8632.5 of the Family Code is amended to read:*

15 8632.5. (a) The department shall establish and adopt
16 regulations for a statewide registration *and enforcement* process
17 for adoption facilitators. The department shall also establish and
18 adopt regulations to require adoption facilitators to post a bond as
19 required by this section.

20 (b) The department may adapt the process it uses to register
21 adoption service providers in order to provide a similar registration
22 process for adoption facilitators. The process used by the
23 department shall include a procedure for determining the status of
24 bond compliance by adoption facilitators, a means for accepting
25 or denying organizations seeking inclusion in the adoption
26 facilitator registry, *a means for removing adoption facilitators*
27 *from the adoption facilitator registry*, and an appeals process for
28 those entities denied inclusion in *or removed from* the adoption
29 facilitator registry. The department may deny *or revoke* inclusion
30 in the registry for adoption facilitators to an applicant who ~~has~~
31 ~~been convicted of any crime for which the department may deny~~
32 ~~a license to an adoption agency~~ *does not possess a criminal record*
33 *clearance or exemption issued by the department pursuant to*
34 *Section 1522 of the Health and Safety Code and the criminal record*
35 *clearance regulations applicable to personnel of private adoption*
36 *agencies. Criminal record clearances and exemptions granted to*
37 *adoption facilitators are not transferable.*

38 (c) Upon the establishment by the department of a registration
39 process, all adoption facilitators that operate independently from

1 a licensed public or private adoption agency or an adoption attorney
2 in this state shall be required to register with the department.

3 (d) An adoption facilitator, when posting a bond, shall also file
4 with the department a disclosure form containing the adoption
5 facilitator's name, date of birth, residence address, business
6 address, residence telephone number, business telephone number,
7 and the number of adoptions facilitated for the previous year. Along
8 with the disclosure form, the adoption facilitator shall provide all
9 of the following information to the department:

10 (1) Proof that the facilitator and any member of the staff who
11 provides direct adoption services has completed two years of
12 college courses, with at least half of the units and hours focusing
13 on social work or a related field.

14 (2) Proof that the facilitator and any member of the staff who
15 provides direct adoption services has a minimum of three years of
16 experience employed by a public or private adoption agency
17 *licensed by the department*, a registered adoption facilitator, or an
18 adoption attorney who assists in bringing adopting persons and
19 placing parents together for the purpose of adoption placement.

20 (A) An adoption facilitator and any member of the staff subject
21 to this paragraph may waive the educational and experience
22 requirements by satisfying all of the following requirements:

23 (i) He or she has over five years of work experience providing
24 direct adoption services *for a licensed adoption agency*.

25 (ii) He or she has not been found liable of malfeasance in
26 connection with providing adoption services.

27 (iii) He or she provides three separate letters of support attesting
28 to his or her ethics and work providing direct adoption services
29 from any of the following:

30 (I) A licensed public or private adoption agency.

31 (II) A member of the Academy of California Adoption Lawyers.

32 (III) The State Department of Social Services.

33 (B) An adoption facilitator who is registered with the department
34 may also register staff members under the designation of "trainee."
35 A trainee may provide direct adoption services without meeting
36 the requirements of this paragraph. Any trainee registered with the
37 department shall be directly supervised by an individual who meets
38 all registration requirements.

39 (3) A valid business license.

1 (4) A valid, current, government-issued identification to
2 determine the adoption facilitator’s identity, such as a California
3 driver’s license, identification card, passport, or other form of
4 identification that is acceptable to the department.

5 (5) Fingerprint images for a background check to be used by
6 the department for the purposes described in this section.

7 (e) The State Department of Social Services may submit
8 fingerprint images of adoption facilitators to the Department of
9 Justice for the purpose of obtaining criminal offender record
10 information regarding ~~state-and~~ *state- and* federal-level convictions
11 and arrests, including arrests for which the Department of Justice
12 establishes that the person is free on bail or on his or her
13 recognizance pending trial or appeal.

14 (1) The Department of Justice shall forward to the Federal
15 Bureau of Investigation requests for federal summary criminal
16 history information received pursuant to this section. The
17 Department of Justice shall review the information returned from
18 the Federal Bureau of Investigation and compile and disseminate
19 a response to the department.

20 (2) The Department of Justice shall provide a response to the
21 department pursuant to subdivision ~~(n)~~ *(m)* of Section 11105 of
22 the Penal Code.

23 (3) The department shall request from the Department of Justice
24 subsequent arrest notification service, as provided pursuant to
25 Section 11105.2 of the Penal Code.

26 (4) The Department of Justice shall charge a fee sufficient to
27 cover the cost of processing the request described in this section.

28 (5) *The department may only release an applicant’s criminal*
29 *record information search response as provided in subparagraph*
30 *(G) of paragraph (4) of subdivision (a) of Section 1522 of the*
31 *Health and Safety Code.*

32 (f) The department may impose a fee upon applicants for each
33 set of classifiable fingerprint cards that it processes pursuant to
34 paragraph (5) of subdivision (d).

35 (g) The department shall post on its Internet Web site
36 ~~information that shows if an adoption facilitator is the registration~~
37 *and bond requirements required by this chapter and a list of*
38 *adoption facilitators* in compliance with the registration and bond
39 requirements of this chapter. The department shall ensure that the
40 information is current and shall update the information at least

1 once every 30 days. However, pursuant to the provisions of Section
2 11142 of the Penal Code, neither the department nor any employee
3 of the department shall reveal the state summary criminal history
4 record or any information from the record to a member of the
5 public.

6 (h) The department shall develop the disclosure form required
7 pursuant to subdivision (d) and shall make it available to any
8 adoption facilitator posting a bond.

9 (i) The department may charge adoption facilitators an annual
10 filing fee to recover all costs associated with the requirements of
11 this section and that fee shall be set by regulation.

12 (j) The department may create an Adoption Facilitator Account
13 for deposit of fees received from registrants.

14 (k) On or before January 1, 2008, the department shall make
15 recommendations for the registry program to the Legislature,
16 including a recommendation on how to implement a department
17 program to accept and compile complaints against registered
18 adoption facilitators and to provide public access to those
19 complaints, by specific facilitator, through the department's
20 Internet Web site.

21 (l) The adoption facilitator registry established pursuant to this
22 section shall become operative on the first day of the first month
23 following an appropriation from the Adoption Facilitator Account
24 to the State Department of Social Services for the startup costs
25 and the costs of administration of the adoption facilitator registry.

26 *SEC. 7. Section 8639 is added to the Family Code, to read:*

27 *8639. (a) Notwithstanding any other provision of this chapter,*
28 *any adoption facilitator who operates without having met the*
29 *requirements established in Section 8632.5 for inclusion into the*
30 *adoption facilitator registry may be assessed by the department*
31 *an immediate civil penalty in the amount of one hundred dollars*
32 *(\$100) per day of the violation.*

33 *(b) The civil penalty authorized in subdivision (a) shall be*
34 *imposed if an adoption facilitator is involved in the facilitation of*
35 *adoptions and the adoption facilitator refuses to seek inclusion in*
36 *the adoption facilitator registry or if the adoption facilitator's*
37 *application for inclusion into the adoption facilitator registry is*
38 *denied and the adoption facilitator continues to facilitate*
39 *adoptions, unless other available remedies, including criminal*
40 *prosecution, are deemed more effective by the department.*

1 (c) An adoption facilitator may appeal the assessment to the
2 director.

3 (d) The department shall adopt regulations implementing this
4 section, including the appeal process authorized in subdivision
5 (c).

6 ~~SEC. 6.~~

7 SEC. 8. Section 8700 of the Family Code is amended to read:

8 8700. (a) Either birth parent may relinquish a child to the
9 department or a licensed adoption agency for adoption by a written
10 statement signed before two subscribing witnesses and
11 acknowledged before an authorized official of the department or
12 agency. The relinquishment, when reciting that the person making
13 it is entitled to the sole custody of the child and acknowledged
14 before the officer, is prima facie evidence of the right of the person
15 making it to the sole custody of the child and the person's sole
16 right to relinquish.

17 (b) A relinquishing parent who is a minor has the right to
18 relinquish his or her child for adoption to the department or a
19 licensed adoption agency, and the relinquishment is not subject to
20 revocation by reason of the minority.

21 (c) If a relinquishing parent resides outside this state and the
22 child is being cared for and is or will be placed for adoption by
23 the department or a licensed adoption agency, the relinquishing
24 parent may relinquish the child to the department or agency by a
25 written statement signed by the relinquishing parent before a notary
26 on a form prescribed by the department, and previously signed by
27 an authorized official of the department or agency, that signifies
28 the willingness of the department or agency to accept the
29 relinquishment.

30 (d) If a relinquishing parent and child reside outside this state
31 and the child will be cared for and will be placed for adoption by
32 the department or a licensed adoption agency, the relinquishing
33 parent may relinquish the child to the department or agency by a
34 written statement signed by the relinquishing parent, after that
35 parent has satisfied the following requirements:

36 (1) Prior to signing the relinquishment, the relinquishing parent
37 shall have received, from a representative of an agency licensed
38 or otherwise approved to provide adoption services under the laws
39 of the relinquishing parent's state of residence, the same counseling

1 and advisement services as if the relinquishing parent resided in
2 this state.

3 (2) The relinquishment shall be signed before a representative
4 of an agency licensed or otherwise approved to provide adoption
5 services under the laws of the relinquishing parent's state of
6 residence whenever possible or before a licensed social worker on
7 a form prescribed by the department, and previously signed by an
8 authorized official of the department or agency, that signifies the
9 willingness of the department or agency to accept the
10 relinquishment.

11 (e) (1) The relinquishment authorized by this section has no
12 effect until a certified copy is sent to, and filed with, the
13 department. The licensed adoption agency shall send that copy by
14 certified mail, return receipt requested, or by overnight courier or
15 messenger, with proof of delivery, to the department no earlier
16 than the end of the business day following the signing thereof. The
17 agency shall inform the birth parent that during this time period
18 he or she may request that the relinquishment be withdrawn and
19 that, if he or she makes the request, the relinquishment shall be
20 withdrawn. The relinquishment shall be final 10 business days
21 after receipt of the filing by the department, unless any of the
22 following apply:

23 (A) The department sends written acknowledgment of receipt
24 of the relinquishment prior to the expiration of that 10-day period,
25 at which time the relinquishment shall be final.

26 (B) A longer period of time is necessary due to a pending court
27 action or some other cause beyond control of the department.

28 (2) After the relinquishment is final, it may be rescinded only
29 by the mutual consent of the department or licensed adoption
30 agency to which the child was relinquished and the birth parent or
31 parents relinquishing the child.

32 (f) The relinquishing parent may name in the relinquishment
33 the person or persons with whom he or she intends that placement
34 of the child for adoption be made by the department or licensed
35 adoption agency.

36 (g) Notwithstanding subdivision (e), if the relinquishment names
37 the person or persons with whom placement by the department or
38 licensed adoption agency is intended and the child is not placed
39 in the home of the named person or persons or the child is removed
40 from the home prior to the granting of the adoption, the department

1 or agency shall mail a notice by certified mail, return receipt
2 requested, to the birth parent signing the relinquishment within 72
3 hours of the decision not to place the child for adoption or the
4 decision to remove the child from the home.

5 (h) The relinquishing parent has 30 days from the date on which
6 the notice described in subdivision (g) was mailed to rescind the
7 relinquishment.

8 (1) If the relinquishing parent requests rescission during the
9 30-day period, the department or licensed adoption agency shall
10 rescind the relinquishment.

11 (2) If the relinquishing parent does not request rescission during
12 the 30-day period, the department or licensed adoption agency
13 shall select adoptive parents for the child.

14 (3) If the relinquishing parent and the department or licensed
15 adoption agency wish to identify a different person or persons
16 during the 30-day period with whom the child is intended to be
17 placed, the initial relinquishment shall be rescinded and a new
18 relinquishment identifying the person or persons completed.

19 (i) If the parent has relinquished a child, who has been found
20 to come within Section 300 of the Welfare and Institutions Code
21 or is the subject of a petition for jurisdiction of the juvenile court
22 under Section 300 of the Welfare and Institutions Code, to the
23 department or a licensed adoption agency for the purpose of
24 adoption, the department or agency accepting the relinquishment
25 shall provide written notice of the relinquishment within five court
26 days to all of the following:

27 (1) The juvenile court having jurisdiction of the child.

28 (2) The child's attorney, if any.

29 (3) The relinquishing parent's attorney, if any.

30 (j) The filing of the relinquishment with the department
31 terminates all parental rights and responsibilities with regard to
32 the child, except as provided in subdivisions (g) and (h).

33 (k) The department shall adopt regulations to administer the
34 provisions of this section.

35 ~~SEC. 7.~~

36 *SEC. 9.* Section 8714.5 of the Family Code is amended to read:

37 8714.5. (a) The Legislature finds and declares the following:

38 (1) It is the intent of the Legislature to expedite legal
39 permanency for children who cannot return to their parents and to
40 remove barriers to adoption by relatives of children who are already

1 in the dependency system or who are at risk of entering the
2 dependency system.

3 (2) This goal will be achieved by empowering families,
4 including extended families, to care for their own children safely
5 and permanently whenever possible, by preserving existing family
6 relationships, thereby causing the least amount of disruption to the
7 child and the family, and by recognizing the importance of sibling
8 and half-sibling relationships.

9 (b) A relative desiring to adopt a child may for that purpose file
10 a petition in the county in which the petitioner resides. Where a
11 child has been adjudged to be a dependent of the juvenile court
12 pursuant to Section 300 of the Welfare and Institutions Code, and
13 thereafter has been freed for adoption by the juvenile court, the
14 petition may be filed either in the county where the petitioner
15 resides or in the county where the child was freed for adoption.

16 (c) Upon the filing of a petition for adoption by a relative, the
17 clerk of the court shall immediately notify the State Department
18 of Social Services in Sacramento in writing of the pendency of the
19 proceeding and of any subsequent action taken.

20 (d) If the adopting relative has entered into a postadoption
21 contact agreement with the birth parent as set forth in Section
22 8616.5 the agreement, signed by the participating parties, shall be
23 attached to and filed with the petition for adoption under
24 subdivision (b).

25 (e) The caption of the adoption petition shall contain the name
26 of the relative petitioner. The petition shall state the child's name,
27 sex, and date of birth.

28 (f) If the child is the subject of a guardianship petition, the
29 adoption petition shall so state and shall include the caption and
30 docket number or have attached a copy of the letters of the
31 guardianship or temporary guardianship. The petitioner shall notify
32 the court of any petition for adoption. The guardianship proceeding
33 shall be consolidated with the adoption proceeding, and the
34 consolidated case shall be heard and decided in the court in which
35 the adoption is pending.

36 (g) The order of adoption shall contain the child's adopted name
37 and, if requested by the adopting relative, or if requested by the
38 child who is 12 years of age or older, the name the child had before
39 adoption.

1 (h) For purposes of this section, “relative” means an adult who
2 is related to the child or the child’s half-sibling by blood or affinity,
3 including all relatives whose status is preceded by the words “step,”
4 “great,” “great-great,” or “grand,” or the spouse of any of these
5 persons, even if the marriage was terminated by death or
6 dissolution.

7 ~~SEC. 8.~~

8 *SEC. 10.* Section 8802 of the Family Code is amended to read:

9 8802. (a) (1) Any of the following persons who desire to adopt
10 a child may, for that purpose, file a petition in the county in which
11 the petitioner resides or, if the petitioner is not a resident of this
12 state, in the county in which the placing birth parent or birth parents
13 resided when the adoption placement agreement was signed, or
14 the county in which the placing birth parent or birth parents resided
15 when the petition was filed:

16 (A) An adult who is related to the child or the child’s half sibling
17 by blood or affinity, including all relatives whose status is preceded
18 by the words “step,” “great,” “great-great,” or “grand,” or the
19 spouse of any of these persons, even if the marriage was terminated
20 by death or dissolution.

21 (B) A person named in the will of a deceased parent as an
22 intended adoptive parent where the child has no other parent.

23 (C) A person with whom a child has been placed for adoption.

24 (D) (i) A legal guardian who has been the child’s legal guardian
25 for more than one year.

26 (ii) If the child is alleged to have been abandoned pursuant to
27 Section 7822, a legal guardian who has been the child’s legal
28 guardian for more than six months. The legal guardian may file a
29 petition pursuant to Section 7822 in the same court and
30 concurrently with a petition under this section.

31 (iii) However, if the parent nominated the guardian for a purpose
32 other than adoption for a specified time period, or if the
33 guardianship was established pursuant to Section 360 of the
34 Welfare and Institutions Code, the guardianship shall have been
35 in existence for not less than three years.

36 (2) If the child has been placed for adoption, a copy of the
37 adoptive placement agreement shall be attached to the petition.
38 The court clerk shall immediately notify the department at
39 Sacramento in writing of the pendency of the proceeding and of
40 any subsequent action taken.

1 (3) If the petitioner has entered into a postadoption contact
2 agreement with the birth parent as set forth in Section 8616.5, the
3 agreement, signed by the participating parties, shall be attached
4 to and filed with the petition for adoption.

5 (b) The petition shall contain an allegation that the petitioners
6 will file promptly with the department or delegated county adoption
7 agency information required by the department in the investigation
8 of the proposed adoption. The omission of the allegation from a
9 petition does not affect the jurisdiction of the court to proceed or
10 the validity of an adoption order or other order based on the
11 petition.

12 (c) The caption of the adoption petition shall contain the names
13 of the petitioners, but not the child's name. The petition shall state
14 the child's sex and date of birth and the name the child had before
15 adoption.

16 (d) If the child is the subject of a guardianship petition, the
17 adoption petition shall so state and shall include the caption and
18 docket number or have attached a copy of the letters of the
19 guardianship or temporary guardianship. The petitioners shall
20 notify the court of any petition for guardianship or temporary
21 guardianship filed after the adoption petition. The guardianship
22 proceeding shall be consolidated with the adoption proceeding,
23 and the consolidated case shall be heard and decided in the court
24 in which the adoption is pending.

25 (e) The order of adoption shall contain the child's adopted name,
26 but not the name the child had before adoption.

27 ~~SEC. 9.~~

28 *SEC. 11.* Section 8814.5 of the Family Code is amended to
29 read:

30 8814.5. (a) After a consent to the adoption is signed by the
31 birth parent or parents pursuant to Section 8801.3 or 8814, the
32 birth parent or parents signing the consent shall have 30 days to
33 take one of the following actions:

34 (1) Sign and deliver to the department or delegated county
35 adoption agency a written statement revoking the consent and
36 requesting the child to be returned to the birth parent or parents.
37 After revoking consent, in cases where the birth parent or parents
38 have not regained custody, or the birth parent or parents have failed
39 to make efforts to exercise their rights under subdivision (b) of
40 Section 8815, a written notarized statement reinstating the original

1 consent may be signed and delivered to the department or delegated
2 county adoption agency, in which case the revocation of consent
3 shall be void and the remainder of the original 30-day period shall
4 commence. After revoking consent, in cases in which the birth
5 parent or parents have regained custody or made efforts to exercise
6 their rights under subdivision (b) of Section 8815 by requesting
7 the return of the child, upon the delivery of a written notarized
8 statement reinstating the original consent to the department or
9 delegated county adoption agency, the revocation of consent shall
10 be void and a new 30-day period shall commence. The birth mother
11 shall be informed of the operational timelines associated with this
12 section at the time of signing of the statement reinstating the
13 original consent.

14 (2) (A) Sign a waiver of the right to revoke consent on a form
15 prescribed by the department in the presence of any of the
16 following:

17 (i) A representative of the department or delegated county
18 adoption agency.

19 (ii) A judicial officer of a court of record if the birth parent is
20 represented by independent legal counsel.

21 (iii) An adoption service provider if the birth parent or parents
22 are represented by independent legal counsel. The adoption service
23 provider shall ensure that the waiver is delivered to the department,
24 the petitioners, or their counsel no earlier than the end of the
25 business day following the signing of the waiver. The adoption
26 service provider shall inform the birth parent that during this time
27 period he or she may request that the waiver be withdrawn and
28 that, if he or she makes that request, the waiver shall be withdrawn.

29 (B) An adoption service provider may assist the birth parent or
30 parents in any activity where the primary purpose of that activity
31 is to facilitate the signing of the waiver with the department, a
32 delegated county agency, or a judicial officer. The adoption service
33 provider or another person designated by the birth parent or parents
34 may also be present at any interview conducted pursuant to this
35 section to provide support to the birth parent or parents, except
36 when the interview is conducted by independent legal counsel for
37 the birth parent or parents.

38 (C) The waiver of the right to revoke consent may not be signed
39 until an interview has been completed by the department or
40 delegated county adoption agency unless the waiver of the right

1 to revoke consent is signed in the presence of a judicial officer of
2 a court of record or an adoption service provider as specified in
3 this section. If the waiver is signed in the presence of a judicial
4 officer, the interview and the witnessing of the signing of the
5 waiver shall be conducted by the judicial officer. If the waiver is
6 signed in the presence of an adoption service provider, the
7 interview shall be conducted by the independent legal counsel for
8 the birth parent or parents. If the waiver is signed in the presence
9 of an adoption service provider, the waiver shall be reviewed by
10 the independent legal counsel who (i) counsels the birth parent or
11 parents about the nature of his or her intended waiver and (ii) signs
12 and delivers to the birth parent or parents and the department a
13 certificate in substantially the following form:

14 I, (name of attorney), have counseled my client, (name of
15 client), on the nature and legal effect of the waiver of right to
16 revoke consent to adoption. I am so disassociated from the
17 interest of the petitioner(s)/prospective adoptive parent(s) as
18 to be in a position to advise my client impartially and
19 confidentially as to the consequences of the waiver. (Name of
20 client) is aware that California law provides for a 30-day period
21 during which a birth parent may revoke consent to adoption.
22 On the basis of this counsel, I conclude that it is the intent of
23 (name of client) to waive the right to revoke, and make a
24 permanent and irrevocable consent to adoption. (Name of
25 client) understands that he/she will not be able to regain
26 custody of the child unless the petitioner(s)/prospective
27 adoptive parent(s) agree(s) to withdraw their petition for
28 adoption or the court denies the adoption petition. Within 10
29 working days of a request made after the department or the
30 delegated county adoption agency has received a copy of the
31 petition for the adoption and the names and addresses of the
32 persons to be interviewed, the department or the delegated
33 county adoption agency shall interview, at the department or
34 agency office, any birth parent requesting to be interviewed.
35 However, the interview, and the witnessing of the signing of
36 a waiver of the right to revoke consent of a birth parent
37 residing outside of California or located outside of California
38 for an extended period of time unrelated to the adoption may
39 be conducted in the state where the birth parent is located, by
40 any of the following:

- 1 (I) A representative of a public adoption agency in that state.
- 2 (II) A judicial officer in that state where the birth parent is
- 3 represented by independent legal counsel.
- 4 (III) An adoption service provider.
- 5 (3) Allow the consent to become a permanent consent on the
- 6 31st day after signing.
- 7 (b) The consent may not be revoked after a waiver of the right
- 8 to revoke consent has been signed or after 30 days, beginning on
- 9 the date the consent was signed or as provided in paragraph (1) of
- 10 subdivision (a), whichever occurs first.

11 ~~SEC. 10.~~

12 *SEC. 12.* Section 1510 of the Probate Code is amended to read:

13 1510. (a) A relative or other person on behalf of the minor, or

14 the minor if 12 years of age or older, may file a petition for the

15 appointment of a guardian of the minor.

16 (b) The petition shall request that a guardian of the person or

17 estate of the minor, or both, be appointed, shall specify the name

18 and address of the proposed guardian and the name and date of

19 birth of the proposed ward, and shall state that the appointment is

20 necessary or convenient.

21 (c) The petition shall set forth, so far as is known to the

22 petitioner, the names and addresses of all of the following:

23 (1) The parents of the proposed ward.

24 (2) The person having legal custody of the proposed ward and,

25 if that person does not have the care of the proposed ward, the

26 person having the care of the proposed ward.

27 (3) The relatives of the proposed ward within the second degree.

28 (4) In the case of a guardianship of the estate, the spouse of the

29 proposed ward.

30 (5) Any person nominated as guardian for the proposed ward

31 under Section 1500 or 1501.

32 (6) In the case of a guardianship of the person involving an

33 Indian child, any Indian custodian and the Indian child's tribe.

34 (d) If the proposed ward is a patient in or on leave of absence

35 from a state institution under the jurisdiction of the State

36 Department of Mental Health or the State Department of

37 Developmental Services and that fact is known to the petitioner,

38 the petition shall state that fact and name the institution.

39 (e) The petition shall state, so far as is known to the petitioner,

40 whether or not the proposed ward is receiving or is entitled to

1 receive benefits from the Veterans Administration and the
2 estimated amount of the monthly benefit payable by the Veterans
3 Administration for the proposed ward.

4 (f) If the petitioner has knowledge of any pending adoption,
5 juvenile court, marriage dissolution, domestic relations, custody,
6 or other similar proceeding affecting the proposed ward, the
7 petition shall disclose the pending proceeding.

8 (g) If the petitioners have accepted or intend to accept physical
9 care or custody of the child with intent to adopt, whether formed
10 at the time of placement or formed subsequent to placement, the
11 petitioners shall so state in the guardianship petition, whether or
12 not an adoption petition has been filed.

13 (h) If the proposed ward is or becomes the subject of an adoption
14 petition, the court shall order the guardianship petition consolidated
15 with the adoption petition, and the consolidated case shall be heard
16 and decided in the court in which the adoption is pending.

17 (i) If the proposed ward is or may be an Indian child, the petition
18 shall state that fact.